

From: [Valentin Lopez](#)
To: [DLGI; Todd Sexauer](#)
Cc: [Alec Apodaca](#)
Subject: AMTB Comments Re: Pacheco Reservoir Geotechnical Investigations DEIR
Date: Friday, April 25, 2025 5:01:55 PM
Attachments: [AMTB Comments Re Pacheco Reservoir Geotechnical Investigations DEIR.pdf](#)

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Dear Mr. Sexauer and Valley Water staff,

Please find the attached comments from the Amah Mutsun Tribal Band and Amah Mutsun Land Trust, regarding the Pacheco Reservoir Geotechnical Investigations DEIR. Thank you,
Valentin Lopez

Chair, Amah Mutsun Tribal Band



Amah Mutsun Tribal Band of Costanoan/Ohlone Indians

Historically known as "San Juan Bautista Band and San Juan Band" Indians of California

PO Box 5272 | Galt, CA 95622

April 25, 2025

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
DLGI@valleywater.org, Tsexauer@valleywater.org

Sent via email

Re: Comments on Design Level Geotechnical Investigations for the Pacheco Reservoir Expansion Project Draft EIR (State Clearinghouse #2024060688)

Dear Mr. Sexauer and Valley Water staff,

This letter is written on behalf of the Amah Mutsun Tribal Band ("AMTB") and the Amah Mutsun Land Trust ("AMLT") to share concerns regarding the Design Level Geotechnical Investigations for the Pacheco Reservoir Project.

As communicated in prior comment letters and through AB52 consultation, the Amah Mutsun Tribal Band is deeply concerned about the scale of irreparable impacts that would result from the overall Pacheco Reservoir Expansion Project (PREP) to our Tribal Cultural Resources including sacred sites, ceremonial sites, rock art sites and ancestral burial sites. We regret that Valley Water is moving forward with efforts to attain approval for the PREP, despite the severity of known impacts to Tribal Cultural Resources that would result from the project.

In light of significant uncertainty regarding the feasibility of the overall Pacheco Reservoir Expansion Project, we question the level of current investment in preparatory studies that the Design Level Geotechnical Investigations represent, and the risk of potentially significant impacts to Tribal Cultural Resources and Biological Resources that accompany it.

The scale of impact of the proposed geotechnical investigations is of significant concern to both AMTB and AMLT, due to the high level of archaeological sensitivity and overall cultural and

historical significance of this upper Pacheco Creek valley cultural landscape to the Amah Mutsun Tribal Band.

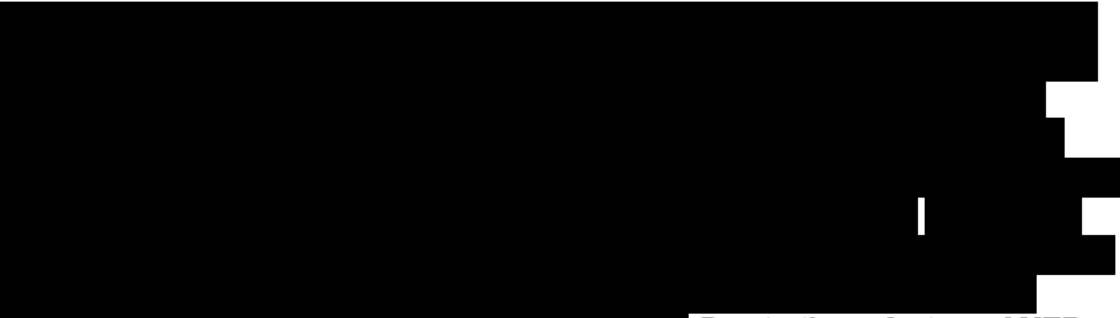
AMTB and AMLT have appreciated the working relationship developed in prior years with the consulting archaeology firm in regard to native monitoring and consultation, when we were invited to assist with monitoring for the larger PREP and contribute to the process of cultural resource evaluation. Unfortunately, it is our understanding that AMTB/AMLT was not invited to participate in this latest round of field work in relation to the geotechnical investigations.

The Geotechnical Investigations described in the DEIR call for up to 149 small diameter boring units, 32 test pits, and two types of extensive geophysical surface transects for a total of 18,410 linear feet. Although the analysis provided in the DEIR determined that significant impacts to significant cultural and natural resources in the project area could be reduced to a less than significant level, AMTB still has concerns about the scope of the proposed work and the adequacy of outlined mitigation measures.

Impacts to Tribal Cultural Resources and pre-contact archaeological resources

Although we appreciate that the current Geotechnical Investigations plan addresses several of the concerns submitted by AMTB to Valley Water previously, there are some remaining areas of concern to the tribe, including:

1. There appears to still be no plan in place for archaeological and native monitoring to accompany the placement of boring holes adjacent to some of the most sensitive sites identified in the study. As identified in the DEIR, it appears that at least two of the planned geotechnical boring holes are occurring within the established buffer zone of archaeological sensitivity. **AMTB again requests that comprehensive monitoring/inspection be required for at least these boring locations, which account for less than 1.5% of the total testing locations planned.** If these borings were to inadvertently produce evidence of low density midden soils, or other associated cultural materials, this would have implications for our overall understanding of these resources and how the two Register-eligible sites would be characterized within the broader PREP project.

2. 
Due to these factors, AMTB recommends requiring a systematic "spot checking plan" be implemented for a

minimum of 10% of the test pits area, incorporating archaeological and Native American monitoring. Such a plan would involve systematic, yet low-frequency inspection of the produced bore hole spoils.

AMTB feels strongly that archaeological and native monitoring is an essential component that should be included in mitigation measures regarding potential impacts to cultural resources resulting from the proposed undertakings.

The incorporation of the above two recommendations— comprehensive archeological/Native monitoring of at least the two boring hole locations that are located nearest to recorded archaeological resources, and a systematic “spot-checking” plan for the test pits area— would help to address AMTB concerns about the potential to disturb buried and other potentially unrecorded cultural resources.

Impacts to Tribal Ethnobotanical Resources and Missing Ethnographic Study Results

While efforts described in the DEIR to identify archaeological resources are extensive, AMLT remains concerned about how the removal of vegetation, soil compaction, and other project activities may impact culturally/ethnobotanically significant populations of plants, which are part of the overall cultural landscape.

As has been communicated within prior AB52 consultation and comments, **AMTB recommends the specific incorporation of an ethnobotanical plant survey as part of the process of identifying and evaluating impacts to Tribal Cultural Resources.** Cross-referencing a list of known culturally significant plants with inventories from past biological surveys is no replacement for a focused ethnobotanical survey that considers patterns of potential species co-occurrence with cultural/village sites and archaeological features. Having a tribal member participate as a cultural monitor during archaeological surveys led by an archaeological consulting firm is not an effective method for identifying ethnobotanical resources and also does not replace the need for such a survey. Field botanists or biologists not specifically trained in identifying ethnobotanical resources or informed by consultation with culturally affiliated tribes are not qualified to perform an adequate ethnobotanical survey.

In addition, the analysis of impacts to Tribal Cultural Resources is not adequate due to the absence of important information that will be provided by the forthcoming Ethnographic Study of the PREP area under preparation by Albion Environmental. As AMTB has previously communicated, the completion of an Ethnographic Study is a critical element of properly analyzing impacts to tribal cultural and historical resources.

Improper classification of AB52 tribal consultation

AMTB is concerned about the minimization of the input of our tribe in ongoing AB52 consultation regarding the current Geotechnical Investigations for the Pacheco Reservoir Expansion Project by terming the consultation an “informal” process, due to a lack of clarity regarding an alleged

requirement for our tribe to submit an additional formal request for consultation specific to the Geotechnical Investigations by a earlier deadline. In consideration of the fact that our tribe has been engaged with Valley Water since 2019 in continuous and ongoing AB52 consultation regarding the project overall, we request that our ongoing engagement be properly considered as formal consultation.

Thank you for the opportunity to provide comments on the proposed Geotechnical Investigations.

A handwritten signature in black ink, appearing to read "Valentin Lopez". The signature is fluid and cursive, with the first name "Valentin" written in a larger, more prominent script than the last name "Lopez".

Valentin Lopez, Chair
Amah Mutsun Tribal Band

Alec Apodaca, PhD—Archaeologist and Cultural Resources Program Manager
Amah Mutsun Land Trust